

105TH CONGRESS  
2D SESSION

# H. R. 3949

To ban the imposition of a fee for performing background checks in connection with the transfer of a firearm, and to ensure that background check information is not retained for longer than necessary.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1998

Mr. BARR of Georgia (for himself, Mr. BOUCHER, Mr. GRAHAM, Mr. BARCIA, and Mr. STRICKLAND) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To ban the imposition of a fee for performing background checks in connection with the transfer of a firearm, and to ensure that background check information is not retained for longer than necessary.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “No Gun Tax Act of  
5       1998”.

1 **SEC. 2. BAN AGAINST FEE FOR BACKGROUND CHECK IN**  
2 **CONNECTION WITH FIREARM TRANSFER.**

3 (a) IN GENERAL.—Chapter 33 of title 28, United  
4 States Code, is amended by adding at the end the follow-  
5 ing:

6 **“§ 540B. Ban against fee for background check in**  
7 **connection with firearm transfer**

8 “No officer, employee, or agent of the United States,  
9 including a State or local employee or officer acting on  
10 behalf of the United States, may charge or collect any fee  
11 in connection with any background check required in con-  
12 nection with the transfer of a firearm (as defined in sec-  
13 tion 921(a)(3) of title 18, United States Code).”.

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 for such chapter is amended by inserting after the item  
16 relating to section 540A the following:

“540B. Ban against fee for background check in connection with firearm trans-  
fer.”.

17 **SEC. 3. UNLAWFUL RETENTION OF FIREARMS TRANSFER**  
18 **INFORMATION.**

19 (a) IN GENERAL.—Chapter 93 of title 18, United  
20 States Code, is amended by adding at the end the follow-  
21 ing:

1   **“§ 1925. Unlawful retention of firearms transfer infor-**  
2                               **mation**

3           “(a)(1) Whoever, being an officer, employee, contrac-  
4   tor, consultant, or agent of the United States, including  
5   a State or local employee or officer acting on behalf of  
6   the United States, in such capacity (A) receives instant  
7   check information, in any form or through any medium,  
8   about an individual who is determined, through the use  
9   of the instant check system, not to be prohibited by sub-  
10   section (g) or (n) of section 922 of this title or State law  
11   from receiving a firearm (as defined in section 921(a)(3)  
12   of this title), and (B) knowingly retains or transfers to  
13   another person such information after the 24-hour period  
14   beginning with such receipt, shall be fined not more than  
15   \$250,000, imprisoned not more than 10 years, or both.

16          “(2)(A) Except as provided in subparagraph (B),  
17   whoever, being an officer, employee, contractor, consult-  
18   ant, or agent of the United States, including a State or  
19   local employee or officer acting on behalf of the United  
20   States, in such capacity (i) receives instant check informa-  
21   tion, in any form or through any medium, about an indi-  
22   vidual who is prohibited by Federal or State law from re-  
23   ceiving a firearm (as so defined), and (ii) knowingly re-  
24   tains or transfers to another person such information after  
25   the 5-year period beginning with such receipt, shall be

1 fined not more than \$250,000, imprisoned not more than  
2 10 years, or both.

3 “(B) Subparagraph (A) shall not apply to informa-  
4 tion about an individual if a criminal prosecution has been  
5 commenced against the individual on the basis of the in-  
6 formation.

7 “(b) In this section:

8 “(1) the term ‘instant check information’ means  
9 information provided to the instant check system  
10 about an individual seeking to obtain a firearm, or  
11 derived from information so provided (other than  
12 any unique identification number provided by the  
13 system pursuant to section 922(t)(1)(B)(i) of this  
14 title, and the date any such number is so provided);  
15 and

16 “(2) the term ‘instant check system’ means the  
17 national instant criminal background check system  
18 established under section 103 of the Brady Handgun  
19 Violence Prevention Act.”.

20 (b) CLERICAL AMENDMENT.—The table of sections  
21 for such chapter is amended by inserting after the item  
22 relating to section 1924 the following:

“1925. Unlawful retention of firearms transfer information.”.

1 **SEC. 4. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 on November 30, 1998.

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